

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re LARIAH A., a Person Coming  
Under the Juvenile Court Law.

B301274  
(Los Angeles County  
Super. Ct. No.  
19CCJP03624A)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

LARRY A.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of  
Los Angeles County, Philip L. Soto, Judge. Affirmed.

Donna P. Chirco, under appointment by the Court of  
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Jacklyn K. Louie, Principal Deputy County Counsel, for Plaintiff and Respondent.

---

Appellant Larry A. (father) appeals from the juvenile court's dispositional order placing his daughter, Lariah A. (minor, born 2010), in the home of her noncustodial, nonoffending mother (mother).<sup>1</sup> We affirm.

**FACTUAL AND PROCEDURAL BACKGROUND**  
**Dependency Petition**

On June 7, 2019, the Los Angeles County Department of Children and Family Services (DCFS) filed a dependency petition pertaining to minor under Welfare and Institutions Code section 300, subdivisions (a) (nonaccidental serious physical harm), (b)(1) (failure to protect), and (j) (abuse of sibling).<sup>2</sup> The petition alleged a history of domestic violence between father and his female companion (father's companion) in minor's presence, substance abuse by father and father's companion, and that minor's half-sister was previously declared a dependent of the court due to father's substance abuse.<sup>3</sup>

---

<sup>1</sup> Mother is not a party to this appeal.

<sup>2</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

<sup>3</sup> The companion dependency case regarding minor's half-sister is not at issue in this appeal.

**Mother's Whereabouts**

Mother's whereabouts were unknown to DCFS when it filed the dependency petition. This remained the case when DCFS prepared a due diligence report regarding its efforts to locate mother on July 8, 2019. Father and the paternal grandmother denied having contact information for mother.

**Adjudication Hearing**

Mother was present at the adjudication hearing on July 10, 2019. The juvenile court sustained counts under section 300, subdivisions (b)(1) and (j), pursuant to father's plea of no contest. The court struck the allegation under section 300, subdivision (a). The court ordered DCFS to use its best efforts to evaluate mother's home in Louisiana for visits or placement of minor. In the interim, minor was detained with the paternal grandmother under DCFS supervision.

**August 8, 2019 Last Minute Information for the Court**

The last minute information filed on August 8, 2019, detailed DCFS's contact with mother following the adjudication hearing.

Mother told DCFS that she had separated from father when minor was approximately six months old due to domestic violence. The relationship further deteriorated when father became involved with his companion, who once physically assaulted mother. Mother decided to relocate to Louisiana, where most of her family lived, when minor was almost four years old. As she could not take minor out of California due to an existing custody order, mother left minor in the care of the paternal grandparents with the intention of returning for her. Mother initially communicated with minor on a regular basis, but the paternal grandparents stopped answering her calls. Mother

later discovered that father had obtained custody of minor. She received notification in Louisiana of the adjudication hearing a day or two before it was to take place, and she quickly arranged a flight to California to attend. Mother told DCFS that she was willing and able to care for minor, and wanted to be granted custody.

Mother received Section 8 housing assistance in Louisiana, where she lived in a three-bedroom home with her four other children, ranging in age from three months to four years. DCFS verified that mother was in good standing with the housing program and her landlord. Her housing had passed inspection earlier in 2019; the home was clean and safe, with working utilities. Mother also provided verification that she worked in the bakery department of a large store.

Mother and minor had a two-hour visit at a DCFS office on July 12, 2019. Prior to the visit, minor told a social worker that she was a little afraid. She explained the source of her fear: “Well, the last time I had a visit with my mom my Uncle Rufus acted like he was gonna throw me in the pool, but he didn’t.” Minor denied being afraid of mother and stated that she wanted to see her.

Minor and mother embraced at the start of the visit and began to talk. Minor stated that she had received birthday cards with money from mother in the past. Minor spontaneously hugged mother and placed her head on mother’s shoulder. Minor told mother that she loved her, and mother said the same. After the visit, minor told the social worker that she liked visiting mother. When asked how she felt about possibly visiting mother in Louisiana, minor “stated that she would be afraid[] ‘because they have hurricanes there.”

DCFS noted that mother was a nonoffending parent, had no major criminal history, had no child welfare history in California or Louisiana, and had suitable housing. It acknowledged the concern that mother and minor had not had regular contact for a long time, but noted that father and the paternal grandparents may have interfered. DCFS pointed to “the fact that father and the paternal grandmother lied to DCFS about mother’s whereabouts and claimed they had no telephone number for her when in fact they did[.]”

DCFS recommended that the juvenile court place minor with mother.

**September 26, 2019 Last Minute Information for the Court**

DCFS filed another detailed last minute information for the court on September 26, 2019.

According to minor’s therapist, minor had been diagnosed with separation anxiety. Minor was having difficulty sleeping and reported having nightmares. She was scared because of a past incident where she almost drowned while in mother’s care. She was also concerned about mother’s arguments with her boyfriend, Tutu.

Minor told a DCFS social worker that, although she had enjoyed her visit with mother, since learning of the possibility of going with her, she could not sleep and her stomach would start to hurt. Minor answered in the affirmative when the social worker asked if worrying about what would happen to father and the paternal grandparents was contributing to her sleeping problems and stomachaches. Minor reported incidents when “Uncle Rufus” pretended to throw her in a pool, a time when she almost drowned but mother pulled her out, and when mother and Tutu fought and minor saw mother’s hand bleeding and broken

glass on the table. When asked what the main reason was that she did not want to go with mother, minor stated, “My grandparents are gonna miss me and I’m gonna miss them.”

Mother stated that Tutu was an ex-boyfriend with whom she had been involved when minor was two years old. Mother and Tutu had engaged in a verbal altercation, but she denied that it escalated to physical violence. She had not been involved with him since that time. Mother had medical benefits through her job and would obtain counseling for minor to assist with the transition.

It was DCFS’s “assessment that the paternal grandparents and father [were] and ha[d] been attempting to sabotage mother’s relationship and custody of [minor]. . . . [T]hey [were] placing [minor] in an emotionally detrimental situation by burdening her with their own feelings and emotions about the possibility of her leaving their home which appear[ed] to have greatly contributed to the anxiety [minor] [was] already feeling about possibly having to make this transition to live with her mother.”

#### **Father and Minor Oppose Placement with Mother**

Father and minor each filed a brief opposing placement with mother. They cited minor’s desire to remain with her paternal family in California, her bond with her half-sister, her lack of a relationship with mother, and “her mother’s unclear living situation[.]” Father also pointed to his ability to reunify with minor. In support, minor’s counsel submitted declarations from minor and the paternal grandmother.

Minor stated that she was “scared to go with” mother because she did not “really know her.” She recalled being scared with mother because mother’s boyfriend, Tutu, “was always yelling and screaming and hitting her.” Mother made minor “talk

to strangers and almost let [her] drown.” Minor did not know anyone where mother lived and did not want to leave her half-sister. Minor wanted to stay with her family and friends at her school and church, and continue with her choir and praise dance team.

The paternal grandmother declared that she witnessed a change in minor’s behavior since minor learned that she might have to live with mother. She was having bad dreams, was afraid to sleep alone, complained of headaches and stomach pain, had tantrums, and was withdrawn.

### **Mother’s Declaration**

Mother submitted a declaration in support of her request to have minor placed with her. She stated that leaving minor in California in 2014 had been “one of the hardest decisions [she] ever made.” She left because she was assaulted by father’s companion, felt in danger, and “wanted to work on stabilizing [her] life.” She acknowledged that “[i]t was a mistake not to be more involved in [minor’s] life.” She was “ready and willing to parent [minor,]” who was authorized to reside in her residence. Mother planned to enroll minor in therapy if appropriate and was willing to facilitate visits and phone calls between minor and father.

### **Disposition Hearing and Order**

At the contested disposition hearing on September 27, 2019, the juvenile court declared minor a dependent of the court and removed her from father. The court explained that it was required to place minor with mother unless it found detriment, which it did not. Accordingly, it ordered minor released to mother under DCFS supervision. The court further ordered family maintenance services for minor and mother; family

enhancement services for father; individual counseling for minor; conjoint counseling for minor and mother; daily telephonic/Skype contact between minor and father, during which the paternal family could participate; and monitored in-person visitation for father.

Father timely appealed the order.

## **DISCUSSION**

On appeal, father argues that the juvenile court erred by placing minor with mother because minor was at substantial risk of emotional detriment.

### **I. Section 361.2**

Section 361.2 provides, in relevant part, that when a juvenile court removes a child from a parent under section 361, it “shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of [s]ection 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.” (§ 361.2, subd. (a).)

In evaluating whether detriment will occur, the juvenile court must “weigh all relevant factors to determine if the child will suffer net harm. [Citation.]” (*In re Luke M.* (2003) 107 Cal.App.4th 1412, 1425 (*Luke M.*).) Any finding of detriment in this context must be by clear and convincing evidence. (*In re C.M.* (2014) 232 Cal.App.4th 1394, 1401 (*C.M.*).)

### **II. Standard of Review**

We review a finding that a minor would not suffer detriment if placed with a noncustodial parent for substantial evidence. (*In re Liam L.* (2015) 240 Cal.App.4th 1068, 1087



(*Liam L.*.) Under this standard, “. . . [w]e do not evaluate the credibility of witnesses, reweigh the evidence, or resolve evidentiary conflicts. Rather, we draw all reasonable inferences in support of the findings, consider the record most favorably to the juvenile court’s order, and affirm the order if supported by substantial evidence even if other evidence supports a contrary conclusion. [Citation.] The appellant has the burden of showing the finding or order is not supported by substantial evidence.’ [Citation.]” (*Ibid.*)

### **III. The Juvenile Court Did Not Err in Placing Minor with Mother**

Mother was a nonoffending, noncustodial parent who requested custody of minor. Under section 361.2, subdivision (a), the juvenile court was required to place minor with her absent a finding of detriment. (*In re Marquis D.* (1995) 38 Cal.App.4th 1813, 1825.)

Substantial evidence supports the finding that placing minor with mother would not be detrimental. Upon receiving notice of the dependency proceedings, mother promptly traveled from Louisiana to California to attend the adjudication hearing and to assert her right to custody of minor. Overall, mother and minor’s visit at a DCFS office on July 12, 2019, went well. They embraced at the beginning and, in the middle of the visit, minor spontaneously hugged mother and placed her head on mother’s shoulder. Minor told mother that she loved her, and mother reciprocated. Mother had no child welfare history in California or Louisiana. She was able to provide suitable housing; she was in good standing with her housing assistance program and landlord, and her home had recently passed inspection. She was employed and received medical benefits through her job. She expressed her

intent to enroll minor in therapy—even before ordered to do so by the juvenile court—and willingness to facilitate contact between minor and father.

Father argues that the juvenile court erred by placing minor with mother because substantial evidence supported a finding that minor would be at risk of emotional detriment in mother’s care. He points to evidence that minor expressed and exhibited physical manifestations of fear and anxiety at the prospect of moving to Louisiana and leaving her paternal family; that mother had been absent for a large portion of minor’s life; and that minor would be separated from her half-sister.

By identifying evidence from which the juvenile court arguably could have found detriment, father “invites us to reweigh the evidence of detriment, which is inconsistent with our standard of review. [Citations.]” (*Liam L.*, *supra*, 240 Cal.App.4th at p. 1088.) Under the substantial evidence standard, “[w]e do not review the evidence to see if there is substantial evidence to support the losing party’s version of events[.]” (*Pope v. Babick* (2014) 229 Cal.App.4th 1238, 1245.) Instead, “we only look at the evidence offered in [respondent’s] favor and determine if it was sufficient.” (*Ibid.*) Having identified such evidence and found it sufficient as set forth above, “it is of no consequence that the . . . court believing other evidence, or drawing other reasonable inferences, might have reached a contrary conclusion. [Citations.]” (*Bowers v. Bernards* (1984) 150 Cal.App.3d 870, 874, italics omitted.)<sup>4</sup>

---

<sup>4</sup> For this reason, father’s reliance on *Luke M.*, *supra*, 107 Cal.App.4th 1412 is misplaced. In that case, the appellate court affirmed a finding of detriment under section 361.2 based on substantial evidence that separating siblings would have a “have

Regardless, none of the evidence cited by father compelled a finding of detriment as a matter of law. “While the child’s wishes, sibling bonds and the child’s relationship with the noncustodial parent may be considered by the juvenile court in determining whether placement of a dependent child with a noncustodial, nonoffending parent would be detrimental to the child’s physical or emotional well-being, none of these factors is determinative. [Citations.]” (*C.M.*, *supra*, 232 Cal.App.4th at p. 1402; see also *In re Adam H.* (2019) 43 Cal.App.5th 27, 33 [“An ‘alleged lack of a relationship between [a noncustodial parent] and [a child] is not, by itself, sufficient to support a finding of detriment for purposes of section 361.2, subdivision (a). [Citation.]’ [Citation.]”].) As to minor’s anxiety and its physical manifestations, it was DCFS’s assessment that father and the paternal grandparents were “placing [minor] in an emotionally detrimental situation by burdening her with their own feelings and emotions about the possibility of her leaving their home” and that this contributed significantly to minor’s emotional state.

In sum, the juvenile court could reasonably conclude from the evidence that minor would not suffer detriment within the meaning of section 361.2 if placed with mother.

---

a devastating emotional impact on” the dependent children. (*Luke M.*, *supra*, at pp. 1426–1427.) “The issue here is the opposite: whether substantial evidence supports the juvenile court’s finding of no detriment.” (*Liam L.*, *supra*, 240 Cal.App.4th at p. 1089.)

**DISPOSITION**

The dispositional order is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

\_\_\_\_\_, J.  
ASHMANN-GERST

We concur:

\_\_\_\_\_, P. J.  
LUI

\_\_\_\_\_, J.  
HOFFSTADT